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08-01-03

1652

PTO/SB/21 (08-00)

Approved for use through 10/31/2002. OMB 0651-0031
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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

		Application Number	09/851,650
		Filing Date	May 8, 2001
		First Named Inventor	Philip J. BARR
		Group Art Unit	1652
		Examiner Name	K. Kerr
Total Number of Pages in This Submission	6	Attorney Docket Number	300622001610

ENCLOSURES (check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form (1 page, plus duplicate)	<input type="checkbox"/> Assignment Papers (for an Application)	<input type="checkbox"/> After Allowance Communication to Group
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input checked="" type="checkbox"/> Amendment/Reply (2 pages)	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below)
<input type="checkbox"/> Express Abandonment Request	<input checked="" type="checkbox"/> Terminal Disclaimer	Terminal Disclaimer to Obviate A Double Patenting Rejection over a Prior Patent (1 page)
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	Return Receipt Postcard
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Response to Missing Parts/Incomplete Application		
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		

Remarks

CUSTOMER NO. 25225

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual Name	MORRISON & FOERSTER LLP Kate H. Murashige – Reg. No. 29,959
Signature	
Date	July 30, 2003

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EV 273019343 US, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: July 30, 2003 Signature: Diane Blevins

TERMINAL DISCLAIMER TO OBLIGATE A DOUBLE PATENTING
REJECTION OVER A PRIOR PATENTDocket Number (Optional)
300622001610

In re Application of: Philip J. BARR, et al.

Application No.: 09/851,650

Filed: May 8, 2001

For: PRODUCTION OF POLYKETIDES IN BACTERIA AND YEAST

The owner, Kosan Biosciences, Inc., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§ 154 to 156 and 173, as shortened by any terminal disclaimer of prior Patent No. 6,033,883, filed 11 December 1997. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that the prior patent expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to grant.

Check either box 1 or 2 below, if appropriate.

1. For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. The undersigned is an attorney or agent of record.

08/04/2003 SESHE1 00000037 031952 09851650
01 FC:2814 55.00 DA

Kate H. Muraghige 7/30/03
Signature Date

Kate H. Muraghige – Reg. No. 29,959

Typed or printed name

Terminal disclaimer fee under 37 CFR 1.20(d) is included.

Please charge the terminal disclaimer fee of \$55.00 to Deposit Account No. 03-1952.

*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).
Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

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Dated: July 30, 2003

Signature: Diane Blevins (Diane Blevins)

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PTO/SB/17 (01-03)
Approved for use through 04/30/2003. OMB 0651-0032

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FEE TRANSMITTAL for FY 2003

Patent fees are subject to annual revision.

Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$ 55.00)

Complete if Known	
Application Number	09/851,650
Filing Date	May 8, 2001
First Named Inventor	Philip J. BARR
Examiner Name	K. Kerr
Group Art Unit	1652
Attorney Docket No.	300622001610

METHOD OF PAYMENT (check all that apply)

Check Credit Card Money Order Other None

Deposit Account

Deposit Account Number 03-1952

Deposit Account Name Morrison & Foerster LLP

The Commissioner is hereby authorized to: (check all that apply)

Charge fee(s) indicated below Credit any overpayments

Charge any additional fee(s) during the pendency of this application

Charge fee(s) indicated below, except for the filing fee

to the above-identified deposit account.

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Small Entity

Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge – late filing fee or oath	
1052	50	2052	25	Surcharge – late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for ex parte reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	410	2252	205	Extension for reply within second month	
1253	930	2253	465	Extension for reply within third month	
1254	1,450	2254	725	Extension for reply within fourth month	
1255	1,970	2255	985	Extension for reply within fifth month	
1401	320	2401	160	Notice of Appeal	
1402	320	2402	160	Filing a brief in support of an appeal	
1403	280	2403	140	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive – unavoidable	
1453	1,300	2453	650	Petition to revive - unintentional	
1501	1,300	2501	650	Utility issue fee (or reissue)	
1502	470	2502	235	Design issue fee	
1503	630	2503	315	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	750	2809	375	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	750	2810	375	For each additional invention to be examined (37CFR 1.129(b))	
1801	750	2801	375	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	
Other fee (specify)		2814	Statutory Disclaimer	55.00	

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$ 55.00)

**or number previously paid, if greater; For Reissues, see above

SUBMITTED BY		Complete (if applicable)		
Name (Print/Type)	Kate H. Murashige	Registration No. (Attorney/Agent)	29,959	Telephone (858) 720-5112
Signature	Kate H. Murashige		Date	July 30, 2003

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Dated: July 30, 2003 Signature: Diane Blevins (Diane Blevins)

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